

Report to the Environmental Review Commission

Pursuant to S.L. 2014-120, Sec. 29 REFORM AGENCY REVIEW OF ENGINEERING WORK

January 14, 2015

Name of Local Government Unit: HENDERSON COUNTY

Approved/delegated program subject to reporting requirements:

X Sedimentation/erosion control

X Stormwater

X Water/sewer

☐ **Cross-connection**

☐ **401 certifications**

☐ **Other** **Type program name**

Natalie J. Berry PE

Signature of report preparer

December 31, 2014

Date

***Submit this report electronically to Mariah Matheson, Commission Assistant,
Environmental Review Commission, at Mariah.Matheson@ncleg.net.***

Name of local government unit: HENDERSON COUNTY GOVERNMENT

*****Please attach any written procedures that may have been developed to implement the provisions of this law.*****

✓ Check to indicate that this plan review program implemented procedures whereby plan reviewers distinguish between plan changes that are required by statutory or other legal authority and those that the reviewer offers as suggestions for improvement. Refer to S.L. 2014-120, Section 29.(b)(1) for further details about this requirement.

✓ Check to indicate that this plan review program identifies the statutory or regulatory authority for any revisions or requests for additional information that are required by the program in order to grant the requested plan permit, approval, or license. Refer to S.L. 2014-120, Section 29.(b)(2) for further details about this requirement.

✓ Check to indicate that this plan review program implemented procedures for local governments to follow when (1) a Professional Engineer submits a sealed design or practice that is not in the local government's guidance, manuals, or standard operating procedures, and (2) the submitting Professional Engineer requests additional internal review of that design or practice. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

✓ Check to indicate that this plan review program established a procedure whereby the plan reviewer's supervisor OR the approving/delegating state agency can provide further review and oversight of these design details. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

✓ Check to indicate that this plan review program either employs a Professional Engineer who can conduct further review of these innovative designs, or maintains a list of consulting Professional Engineers of the local government unit's choice that may conduct this review, if requested by and paid for by the submitting Professional Engineer. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

✓ Check to indicate that this plan review program established an informal internal process to address disputes when a plan reviewer identifies a change to the plans as being "required" under a specific, identified legal authority. Refer to S.L. 2014-120, Section 29.(c)(2) for further details about this requirement.

✓ Check to indicate that this plan review program discontinued use of the word "engineer" in the job titles of all program employees whose responsibilities include review of plans in affected programs, *unless* those employees hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h) for further details about this requirement.

Name of local government unit: HENDERSON COUNTY GOVERNMENT

☒ Check to indicate that this plan review program reviewed the titles of all employees conducting plan reviews for this program. Refer to S.L. 2014-120, Section 29.(h)(1) for further details about this requirement.

☒ Check to indicate that this plan review program proposed revisions to those employees' job titles in order to eliminate use of the word "engineer" when publicly identifying those employees, if those employees do not hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h)(2) for further details about this requirement.

Additional information: See attached Memo



HENDERSON COUNTY ENGINEERING

100 North King Street, Suite 210
Hendersonville, North Carolina 28792
(828) 694-6521

To: Mariah Matheson, Commission Assistant
From: Natalie J. Berry P.E., Assistant County Engineer *Natalie J. Berry*
CC: Marcus A. Jones P.E., County Engineer
Date: December 31, 2014
RE: Regulatory Reform of 2014 - S.L. 2014-120

Please see our outline of how engineering will address the requirements of S.L. 2014-120, if you have any questions please do not hesitate to contact us direct;

Identify "required" vs. "suggested" changes. The new law requires plan reviewers in these areas to distinguish between plan changes that are required by a statutory or other legal authority and those that the reviewer offers as suggestions for improvement. The law directs plan reviewers to specifically identify the legal authority for any required changes when communicating with the plan submitter.

Changes: Staff will identify the Henderson County Ordinance Article and Section number that calls for the requirement and if the North Carolina State Best Management Practices Manual is the reason, we will reference that as the requirement.

Disputes involving a Professional Engineer (PE). The new law specifies a procedure for local governments to follow when a PE seals a submitted plan, yet the plan reviewer requires changes with which that PE disagrees. For these cases, the local government must establish a procedure whereby the plan reviewer's supervisor or the approving/delegating state agency can provide further review and oversight of the plan details. As an additional requirement, if the first local government reviewer was not a PE, then the submitting PE may request that a PE conduct the secondary, "escalated" plan review. If the local government does not employ a PE, the new law makes allowances for the submitting party to pay for an outside PE of the local government's choice.

Changes: If the submitting engineer disagrees with the plan reviewer, the County Engineer will provide the further review and oversight of the plan details.

Henderson County employs two (2) professional engineers to review all environmental plans in the engineering department so this section would not be an issue.

Disputes involving changes that are "required." The new law also directs local governments to establish an informal internal process to address disputes when a plan reviewer identifies a change to the plans as being "required" under a specific, identified legal authority.

Changes: Henderson County will have the following process when this occurs:

First Step: Plan Reviewer request additional information "suggestion" or "required" with code references.

Second Step (appeal Plan Review decision) to: County Engineer will determine if required.

Third Step (appeal County Engineer decision) to: Consulting Engineer at the submitting engineers cost.

Job titles. The new law prohibits local governments from including the word "engineer" in the job titles of employees conducting plan reviews subject to this law *unless* that employee is a PE. If the employee does not hold a PE license, then the local government must remove the word "engineer" from that employee's job title.

Changes: None, Henderson County employs Professional Engineers.

The new law also directs these programs to report to the Environmental Review Commission, a legislative oversight committee, in January 2015

Changes: Henderson County will develop an initial report to the Environmental Review Commission prior to the convening of the 2015 Regular Session of the 2015 General Assembly on implementation of the following items:

Standardize Certain Regulatory Review Procedures - Henderson County will address requests for additional information. This will entail sighting Code references and making clear when the request is a suggestion vs a requirement.

Informal Review – Henderson County will develop and maintain a list of Consulting Professional Engineers and have written procedures on the informal review process when disagreements arise in the plan review process.

Review job titles – Henderson County will report "no action" required due to we hire professional engineers to do environmental plan reviews in the engineering department.

Annual Reporting – Beginning 2016, each regulatory agency shall annually report to the Environmental Review Commission no later than January 15 on the informal review process required by S.L. 2014-120 Section 29(c). This report must include how many times the informal review process was utilized and the outcome of the review. This annual review reporting will expire on January 1, 2019.

